

## REMARKS

Claims 1-28 and 35-45 were pending in this application at the time the present Office Action was mailed. Claims 1, 15, and 35, and 41-43 have been amended in this response and new claim 70 has been added. Claims 41-43 have been amended only to modify the antecedent basis of certain phrases in light of the present amendment to claim 35. Accordingly, claims 1-28, 35-45, and 70 are now pending in the application.

In the Office Action mailed January 13, 2004, claims 1-28 and 35-45 were rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,259,513 issued to Gallatin et al. ("Gallatin"). The undersigned attorney wishes to thank the Examiner for engaging in a telephone conference on March 29, 2004. During the telephone conference, the Examiner and the undersigned attorney discussed the present Office Action, the Gallatin reference, and the pending claims. The following remarks summarize the results of the March 29 telephone conference, including the agreements reached during the telephone conference.

### A. Response to the Section 102 Rejection—Gallatin

Claims 1-28 and 35-45 were rejected under 35 U.S.C. § 102(e) as being anticipated by Gallatin. During the March 29 telephone conference, the Examiner indicated that independent claim 22 was patentably distinguishable over Gallatin. Accordingly, the Section 102 rejection of claim 22 should be withdrawn.

Claims 23-28 depend from base claim 22 and are patentable over the applied reference for the reasons discussed above and for the additional features of these dependent claims. Accordingly, the Section 102 rejections of these claims should be withdrawn.

Independent claims 1, 15, and 35 have been amended in accordance with the agreement reached between the undersigned attorney and the Examiner during the March 29 telephone conference. During the March 29 conference, the Examiner indicated that claims 1, 15, and 35 with the current amendment patentably distinguish

over the applied reference. Accordingly, the Section 102 rejections of claims 1, 15, and 35 should be withdrawn.

Claims 2-14 depend from base claim 1, claims 16-21 depend from base claim 15, and claims 36-45 depend from base claim 35. These dependent claims are patentable over the applied reference for the reasons discussed above and for the additional features of these dependent claims. Accordingly, the Section 102 rejections of claims 2-14, 16-21, and 36-45 should be withdrawn.

B. New Claim 70

New claim 70 has been added in this paper. Claim 70 is generally similar to claim 35 before it was amended in this response. As discussed during the March 29 telephone conference, Gallatin does not disclose all the features of original claim 35 (e.g., determining the difference between an intensity distribution of radiation impinging on the microlithographic substrate and a target intensity distribution, and at least partially reducing the difference by changing a state of a first portion of an adaptive structure in a radiation path relative to a second portion of the adaptive structure). Accordingly, new claim 70 is patentable over the applied reference and is in condition for allowance. If the Examiner identifies a reference that discloses or suggests the features of claim 70, the Examiner is encouraged to call the undersigned attorney to discuss this matter.

C. Conclusion

In view of the foregoing, the claims pending in the application comply with the requirements of 35 U.S.C. § 112 and patentably define over the applied art. A Notice of Allowance is, therefore, respectfully requested. If the Examiner has any questions or believes a telephone conference would expedite prosecution of this application, the Examiner is encouraged to call the undersigned at (206) 359-3982.

Respectfully submitted,

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Date: 4/1/04

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